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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF ARIZONA**
9

10 James Arnett,

11 Plaintiff,

12 vs.

13 Benjamin Snow Howard, et al.,

14 Defendants.
15

No. 4:12-CV-00311-DCB-DTF

MEMORANDUM IN OPPOSITION

16
17 **Opposition To Defendants' Motion To Dismiss**
18

19 Representing himself *Pro Se*, Plaintiff James Arnett filed this Complaint
20 [Doc. 1] against Defendants Howard, et al., in the United States District Court For
21 The District Of Arizona on 24 April 2012.
22

23 Plaintiff alleges that Defendant Howard has acted as authorized agent for [a
24 jurisdictional Diversity of] additionally named Defendants, as well as acting as an
25 individual, in the contracting of Plaintiff, within the District of Arizona, for the
26 manufacture of an Audio Book, TV Commercial Spot, and a Motion Picture of
27 three hours in length, based upon Defendant Howard's text book, "Overcoming
28 Life's Trauma", which were manufactured and produced by Plaintiff;

1 Whereas, Defendants have withheld and refused to make complete payment
2 for goods and services, despite commissioning the manufacture thereof, receiving,
3 accepting, and using Plaintiff's goods and services on his internet website,
4 breaching contract, resulting in significant damages to Plaintiff, by the alleged
5 actions and by definition under the Arizona Revised Statutes (A.R.S.) Title 47.

6
7 Additionally, Plaintiff alleges that Defendants defrauded Plaintiff on the
8 misrepresentation and transfer of a 1994 Suzuki motorcycle [Exhibit A], in regard
9 to its year of manufacture and its very dangerous condition, as well as ongoing
10 acts, notably inconsistent with Good Faith, to avoid making any substantial or
11 complete payment for the goods and services provided by Plaintiff, which cross
12 over into Fraud, by alleged actions and by definition under A.R.S., Title 44.

13
14 Whereas, Defendants have disregarded all efforts to settle this debt prior
15 to litigation [Exhibit B], and by disregarding the Plaintiff's attempts to serve
16 Waiver and Summons, and by disregarding the Waiver issued by the United States
17 Marshal Service, until personal Service was accomplished by the United States
18 Marshal on 6 September 2012 [Doc. 17], additional and ongoing damages have
19 been caused by Defendants to Plaintiff, as both direct and as cascading damages.

20
21 Defendants have filed a "Motion To Dismiss & Memorandum In Support"
22 [Doc. 18] on 26 September 2012, asserting (1) Lack Of Personal Jurisdiction,
23 (2) Improper Venue, (3) Failure to state a claim upon which relief can be granted.

24
25 Therefore, Plaintiff OPPOSES Defendants' Motion To Dismiss [Doc. 18]
26 and respectfully requests that this honorable Court deny Defendants' Motion, in
27 whole or in part, on the following grounds:

DOCUMENT STRUCTURE

I. PERSONAL JURISDICTION IS PROPER – page 5.

A. PRIMA FACIE EVIDENCE IS SUFFICIENT – page 5.

B. GENERAL PERSONAL JURISDICTION – page 6.

C. SPECIFIC PERSONAL JURISDICTION – page 6.

(Arizona Long-Arm Statute)

1. Purposeful Availment/Purposeful Direction – page 7.

(*Calder* Test)

(1) Intentional Act

(2) Expressly Aimed at the Forum State

(3) Caused Harm

2. Arising Out of – page 10.

(Ninth Circuit “But For” Test)

3. Fair Play and Substantial Justice – page 11.

(Ninth Circuit “Reasonable” Seven Factors)

(1) The extent of a defendant’s purposeful interjection.

(2) The burden on the defendant in defending in the forum.

(3) The extent of conflict with the sovereignty of the

defendant’s state.

(4) The forum state’s interest in adjudicating the dispute.

(5) The most efficient judicial resolution of the controversy.

(6) The importance of the forum to the plaintiff’s interest in
convenient and effective relief.

(7) The existence of an alternative forum.

4. Analysis – page 14.

D. ADDITIONALLY NAMED DEFENDANTS (ALTER EGO) page 15.

1. Defendant Lifeline Media LLC – page 17.

2. Defendant Nationwide Affordable Housing Inc. - page 18.

3. Defendant Ben Howard Trust – page 19.

4. Analysis – page 21.

II. VENUE IS PROPER - page 22.

A. United States Code 28 U.S.C. § 1391(a)(2) – page 22.

B. The Burden on Plaintiff - page 23.

C. Analysis – page 24.

III. MOTION FOR LEAVE OF COURT TO AMEND – page 25.

IV. SUMMARY – page 25.

ATTACHMENTS (Prima Facie Evidence)

Exhibit A – Plaintiff's 1994 Suzuki VS1400 Motorcycle.

Exhibit B – Defendant Howard's entire pre-litigation negotiations.

Exhibit C – Affidavit of Mr. Edgar A. Ybarra.

Exhibit D – Affidavit of Mr. Steven M. Adelson.

Exhibit E – Airline Ticket purchase.

Exhibit F – Field Phone records.

Exhibit G – Defendants' online public exhibition of Motion Picture.

Exhibit H – Corporate record Defendant Lifeline Media LLC

Exhibit I – Corporate record RFA Financial LLC

Exhibit J – Corporate record Defendant Nationwide Affordable Housing Inc.

Exhibit K – Motorcycle Bill Of Sale and Insurance card.

Exhibit L – Odometer reading in Utah (at over 10K miles).

Exhibit M – Motorcycle brake pad damage (at over 11K miles).

Exhibit N – Proof of minor Payments by Defendant Howard.

I. PERSONAL JURISDICTION IS PROPER

Regarding Defendant BENJAMIN SNOW HOWARD;

A. PRIMA FACIE EVIDENCE IS SUFFICIENT

Whereas, Defendant Howard has NOT denied his business trip into the Forum State, in or around February 2011, for the express purpose of soliciting the manufacture of goods and the acquisition of services from Plaintiff - now, "Prima facie" evidence in the form of two affidavits from Mr. Edgar A. Ybarra (an Emmy Award winning television journalist in 2011 and in 2012) [Exhibit C], and from Mr. Steven M. Adelson (a freelance journalist and writer) [Exhibit D], are attached to this document in support, placing Defendant Howard at the Tucson, Arizona work studio of Plaintiff Arnett, in or around February 2011.

Plaintiff believes, that when a court determines an issue of Personal Jurisdiction based upon affidavits, "[the] very limitations dictate that plaintiff must make only a prima facie showing of jurisdictional facts through the submitted materials in order to avoid a defendant's motion to dismiss." *Data Disc*, 557 F.2d at 1285, as the *Schwarzenegger* Court stated:

In such cases, we only inquire into whether [the plaintiff's] pleadings and affidavits make a prima facie showing of personal jurisdiction. Although the plaintiff cannot simply rest on the bare allegations of its complaint, uncontroverted allegations in the complaint must be taken as true. Conflicts between parties over statements contained in the affidavits must be resolved in the plaintiff's favor.

Schwarzenegger, 374 F.3d at 800 (citations and internal quotations omitted).

1 Because no statutory method for resolving the personal jurisdiction issue exists,
 2 Plaintiff believes, the District Court determines the method of its resolution. See
 3 *Data Disc, 557 F.2d at 1285 (citing Gibbs v. Buck, 307 U.S. 66, 71-72 (1939))*.
 4

5 Therefore, Plaintiff believes his Prima Facie evidence is sufficient as the
 6 foundation for the Jurisdiction that this honorable Court has over Defendants.
 7

8 **B. GENERAL PERSONAL JURISDICTION**

9
 10 Plaintiff has NOT asserted that General Jurisdiction exists over Defendants.
 11

12 **C. SPECIFIC PERSONAL JURISDICTION**

13
 14 The elements constituting sufficient Minimum Contacts, even by
 15 telephonic means, appear to be met under Arizona Supreme Court decision in *The*
 16 *Planning Group of Scottsdale, v. Lake Mathews Mineral Properties, LTD, CV-10-*
 17 *0189-PR (Ariz. 2011)*, whereby, the Arizona “Long-Arm” Statute applies.
 18

19 That Court articulated, jurisdiction hinges on one question: “*Considering all*
 20 *of the contacts between the defendants and the forum state, did the defendants*
 21 *engage in purposeful conduct for which they could reasonably expect to be haled*
 22 *into the state’s courts with respect to that conduct?*” Plaintiff asserts that
 23 Defendants fully expected their liabilities to be held up to the laws and statutes of
 24 Arizona, and deliberately refused, on every occasion, the demand for execution of
 25 a promised, formal contract, in a deliberate attempt to frustrate Arizona Law.
 26

27 Therefore, Plaintiff DOES assert that Specific Personal Jurisdiction exists
 28 over Defendants, under the Arizona Long-Arm Statute by the following reasoning:

1. Purposeful Availment/Purposeful Direction

Purposeful availment requires affirmative conduct which allows or promotes the transaction of business within the forum. *Decker Coal Co. v. Commonwealth Edison Co.*, 805 F.2d 834, 840 (9th Cir. 1986).

Plaintiff believes, a defendant has engaged in affirmative conduct and thereby “purposely availed himself of the benefits of a forum if he has deliberately ‘engaged in significant activities within a State or has created “continuing obligations” between himself and the residents of the forum.” *Gray*, 913 F.2d at 760 (quoting *Burger King*, 471 U.S. at 475-76); see *Cybersell, Inc.*, 130 F.3d at 417 (stating that “the ‘purposeful availment’ requirement is satisfied if the defendant has taken deliberate action within the forum state or if he has created continuing obligations to forum residents”) (citing *Ballard v. Savage*, 65 F.3d 1495, 1498 (9th Cir. 1995)). Additionally, purposeful availment is present when the defendant “[has] performed some type of affirmative conduct which allows or promotes the transaction of business within the forum state.” *Sher*, 911 F.2d at 1362 (quoting *Sinatra v. National Enquirer, Inc.*, 854 F.2d 1191, 1195 (9th Cir. 1988)). have arisen. See *Terracom*, 49 F.3d at 561.

Because Defendant Howard allegedly traveled into the Forum State for the express purpose of commissioning the manufacture of significant goods and for the acquisition of services from Plaintiff [Doc. 1 ¶1-3], both in person and later, remotely by telephone [Doc. 1 ¶4], as well as Defendant Howard allegedly booking [Exhibit E] and purchasing the airline travel for Plaintiff [Doc. 1 ¶4], he performed acts aimed at, and had a direct effect in the Forum [Exhibit N]. Notably, Defendant had provided Plaintiff with a field phone as early as November 2010 [Exhibit F] for Minimum Contacts by paying the bill as a

1 continuing obligation for (CSS coding) consulting services on the identical matter
 2 from which this case arises, for seven months within the Forum, prior to Plaintiff
 3 leaving for four months in Utah. Defendant Howard has purposefully availed
 4 himself of the laws of Arizona, by affirmative conduct which allowed and
 5 promoted the transaction of business with the Forum.

6
 7 Purposeful direction is evaluated under the three-part “effects” test found in
 8 the Supreme Court’s decision of *Calder v. Jones*, 465 U.S. 783 (1984). The Ninth
 9 Circuit described in its *Calder* three-part test, as follows:

10
 11 *Calder stands for the proposition that purposeful availment is satisfied even*
 12 *by a defendant “whose only ‘contact’ with the forum state is the ‘purposeful*
 13 *direction’ of a foreign act having effect in the forum state.” . . . [Under]*
 14 *Calder, the “effects” test requires that the defendant allegedly have*
 15 *(1) committed an intentional act, (2) expressly aimed at the forum state,*
 16 *(3) causing harm that the defendant knows is likely to be suffered in the*
 17 *forum state.*

18
 19 See *Schwarzenegger*, 374 F.3d at 803 (citing *Dole Food*, 303 F.3d at 1111
 20 (internal citations omitted)). Consistent with the purposeful direction analysis,
 21 Plaintiff asserts that Defendant Howard aimed his conduct at Arizona and,
 22 likewise, that Arizona suffered the effect of such conduct. Keeping in mind that
 23 not every “foreign act with foreseeable effects” in the forum state will support a
 24 finding of specific jurisdiction, *Dole Food Co.*, 303 F.3d at 1112 (citation
 25 omitted), Defendant’s alleged conduct will be scrutinized under the *Calder*
 26 “effects” test to determine the appropriateness of finding jurisdiction here, under
 27 the following criteria:
 28

1 (1) *Intentional Act*

2 Because Defendant allegedly received extensive consulting by phone from
3 Plaintiff, then traveled into Tucson, Arizona, for the express purpose of acquiring
4 services from Plaintiff, by making an offer of equity ownership and paying all
5 personal expenses to facilitate the manufacture of goods, Defendant received
6 partial services (CSS Web coding), before leaving the Forum with an agreement to
7 begin manufacture at a later date [Doc. 1, ¶1-4], said contact and conduct are
8 sufficient to constitute the commission of an intentional act.

9
10 (2) *Expressly Aimed at the Forum State*

11 Plaintiff asserts that Defendant Howard expressly aimed his conduct at
12 Arizona by individually targeting Plaintiff, a resident of Arizona. The effect of the
13 intentional acts of Defendant Howard, having been expressly aimed at the Forum
14 State, have caused the plaintiff grievous harm.

15
16 (3) *Caused Harm*

17 Plaintiff has yet to be fully or substantially compensated by Defendant
18 Howard for the production of a Motion Picture of three hours in length,
19 predominantly comprised of “green screen” and computer animated visual effects,
20 requiring substantially more labor and expertise to manufacture than a
21 traditionally filmed product; an Audio Book product; and a broadcast standard TV
22 Commercial Spot [Motion to enter Prima Facie evidence on Disc to follow].
23 Plaintiff alleges that Defendant failing to perform had the effect (direct and
24 indirect) of injuring Plaintiff, a resident of the Forum State [Doc. 1].

25
26 Plaintiff believes that the final prong of the Purposeful Direction Test is
27 satisfied and asserts that Defendant purposefully directed his activities at Arizona
28 and that Defendant should have reasonably anticipated being sued in Arizona.

2. Arising Out of

The Ninth Circuit has adopted a “BUT FOR” test for determining whether a plaintiff’s cause of action arises out of the defendant’s forum-related activities. *Doe*, 112 F.3d at 1051; see *Omeluk*, 52 F.3d at 271. The “arising out of” requirement is met if, but for the contacts between the defendant and the forum state, the cause of action would not have arisen. See *Terracom*, 49 F.3d at 561.

Plaintiff’s claims arise out of Defendant’s Forum-related activities, directed at Plaintiff, a resident of the Forum. This second prong requirement for Specific Jurisdiction is met if Plaintiff would not have been injured “BUT FOR” Defendant Howard’s conduct in the Forum.

Defendant Howard’s alleged non-payment for goods and services, and public exhibition of the Motion Picture and TV Commercial Spot [Exhibit G] is sufficient to show harm to Plaintiff in his principal place of business in Arizona. As a result of Defendants’ alleged conduct, Plaintiff has lost his work studio in Tucson, Arizona, which has caused a suspension of business operations and income - BUT FOR Defendant Howard’s conduct and non-payment, no injury would have occurred.

3. Fair Play and Substantial Justice

The third and final prong is whether the exercise of jurisdiction comports with traditions notions of fair play and substantial justice, as to make it reasonable. The Ninth Circuit considers the following Seven Factors in determining whether the exercise of specific jurisdiction over a defendant is reasonable:

- (1) the extent of a defendant's purposeful interjection;
- (2) the burden on the defendant in defending in the forum;
- (3) the extent of conflict with the sovereignty of the defendant's state;
- (4) the forum state's interest in adjudicating the dispute;
- (5) the most efficient judicial resolution of the controversy;
- (6) the importance of the forum to the plaintiff's interest in convenient and effective relief;
- (7) the existence of an alternative forum."

See *Ziegler*, 64 F.3d at 475 (citing *Terracom*, 49 F.3d at 561) (finding that all seven factors must be weighed, but none are dispositive); see also *Worldwide Volkswagen*, 444 U.S. at 292 (listing several of the seven factors). These Seven Factors demonstrate the following:

(1) The extent of a defendant's purposeful interjection

Defendant Howard's purposeful interjection of his alleged activity and conduct were sufficient, by personal, physical interjection into the Forum, as well as remotely, by telephonic means, to "bookend" the damages his alleged conduct and purposeful interjection effected in the Forum State, as well as making a subsequent purposeful interjection into the Forum to solicit and contract Plaintiff's associate, Mr. Gerren Ard from the Forum State, in the direct matter of this Case.

1 Defendant Continued Obligations with Plaintiff for seven months in this
 2 Forum, from November 2010 until Plaintiff departed for Utah in June 2011 as
 3 agreed, having provided Plaintiff with a Cricket field phone with a Tucson (520)
 4 area code number [Exhibit F], from which to gain ongoing development
 5 consultation services in the direct matter of this Case.

6
 7 Additionally, Defendant allegedly had set up by himself, as the means of
 8 Plaintiff's transportation home (of which, approximately half the journey was on
 9 the highways of the Forum), as an alleged attempt to create the conditions most
 10 favorable to causing a highway wreck, as a covert means, with a high probability
 11 of relieving himself of his substantial debt to Plaintiff.

12
 13 **(2) The burden on the defendant in defending in the forum**

14 The burden upon Defendants in defending a lawsuit in Arizona rather than
 15 in Utah is slight due to the geographic proximity of Utah, a neighboring state,
 16 fully sharing its southern border with Arizona. Defendant Howard is allegedly an
 17 individual of means, with major interests in approximately 50 companies, trusts
 18 and accounts in Utah, Texas, Idaho, Mondiaen in Amsterdam, properties in
 19 Nevada [Exhibit O], and other interests in Mexico, with substantial assets,
 20 estimated at well over two million dollars. Additionally, Defendants maintain
 21 their representing attorney in Tempe, Arizona, who has ECF filing access, and
 22 who has full electronic and telephonic communications with Defendants. It is also
 23 yet to be determined if the physical presence of Defendants in this Forum are even
 24 necessary or required, beyond their attorney, at this early stage of the proceedings.

25
 26 Whereas, Plaintiff is representing himself *Pro Se*, and does indeed need to
 27 appear physically for requisite filings, appearance hearings, trial, and any other
 28 proceedings which this honorable Court may require of him.

1 Additionally, Plaintiff does not enjoy ECF filing access, nor enjoys regular
 2 internet access, but needs to physically travel to the District Courthouse in Tucson,
 3 in order to file in person. Traveling to any alternate forum state to file is unfeasible
 4 and impossible for Plaintiff, for the reason of damages already allegedly caused by
 5 Defendants, requiring Plaintiff to proceed in this case under the *In Forma*
 6 *Pauperis* (I.F.P) provision of the Rules.

7
 8 **(3) The extent of conflict with the sovereignty of the defendant's state**

9 This matter extends no conflict with the sovereignty of the state of Utah, as
 10 no prior claims have been filed by Plaintiff with any court of that forum state.

11
 12 **(4) The forum state's interest in adjudicating the dispute**

13 Arizona has a substantial interest in protecting and granting relief to its
 14 residents from breeches of contracts, frauds, etc., regardless of where the alleged
 15 defendant resides.

16
 17 **(5) The most efficient judicial resolution of the controversy**

18 Because the substantial body of evidential proofs are located in Tucson,
 19 Arizona, as well as Plaintiff's key and primary witness (Mr. Ard does not have the
 20 wherewithal to travel to Utah), the most efficient judicial resolution of the
 21 controversy can only be accomplished within the Forum State. Any other forum
 22 would, in effect, make proceeding impossible for Plaintiff, and effectively end any
 23 reasonable expectation and possibility of obtaining any adjudication for relief.

24
 25 **(6) The importance of the forum to the plaintiff's interest in**
 26 **convenient and effective relief**

27 Because it is impractical [and otherwise impossible] for Plaintiff to pursue
 28 relief in any other forum, whereas, Defendants have the wherewithal to engage an

1 attorney in this Forum, lodge and travel at will by a surplus of means, Fair Play
 2 and Substantial Justice demand a Forum where the aggrieved party would not be
 3 effectively forced into certain dismissal by default. It should also be noted that
 4 Arizona Law materials are fully available to Plaintiff to research at the District
 5 Court and public libraries within this Forum.

7 **(7) The existence of an alternative forum**

8 Four Defendants are named in this matter: (1) Defendant Howard, a resident
 9 of Utah; (2) Defendant Lifeline Media LLC., a Utah entity; (3) Defendant
 10 Nationwide Affordable Housing Inc., a Texas corporation; (4) Defendant Ben
 11 Howard Trust, an Idaho trust. If this Case is removed to any alternate forums, that
 12 would, in effect, allow Defendants to create four cases in redundancy, as a burden
 13 on a plurality of District Courts, and make proceeding impossible for Plaintiff,
 14 effectively ending any reasonable expectation and possibility of obtaining any
 15 adjudication for relief. The Federal Rules of Civil Procedure may provide for
 16 Consolidation under Rule 42(a).

18 **4. Analysis**

20 A non-resident defendant who purposely directed activities at Forum
 21 residents must present a compelling case that the presence of other considerations
 22 would render jurisdiction unreasonable. *Burger King Corp. v. Rudzewics*, 471 U.S.
 23 462, 105 S.Ct. 2174 (1985). Defendants' arguments are uniformly insufficient and
 24 conclusionary, thereby failing to present a compelling case to dismiss.

26 Therefore, based on the foregoing Due Process being satisfied, Plaintiff
 27 respectfully requests that this honorable Court deny Defendants' Motion To
 28 Dismiss Defendant Benjamin Snow Howard from Specific Personal Jurisdiction.

1 **D. ADDITIONALLY NAMED DEFENDANTS (ALTER EGO)**

2
3 Whereas, Defendant Howard is the authorized agent and sole member of
4 record for each entity additionally named as Defendants in this case [Exhibit H &
5 Exhibit J], Plaintiff asserts that each of the same are an “Alter Ego” of Defendant
6 Benjamin Snow Howard, and respectfully requests that this honorable Court find
7 Specific Personal Jurisdiction over the additionally named Defendants, as it may
8 over Defendant Howard, under the Arizona *Alter Ego* Doctrine.
9

10 Plaintiff alleges that it would be unjust to allow the additionally named
11 Defendants to escape their liabilities in this Forum because those entities are
12 nothing more than the conduits through which Defendant Howard carries out his
13 personal and professional business, in such a way that unity of interest AND
14 ownership are combined, to the degree that any distinction between the
15 personalities of the corporations and the owner(s) have ceased to exist.
16

17 Plaintiff alleges that Defendant Howard improperly and unilaterally used
18 trust and corporate funds and assets for his personal benefit with full Unity Of
19 Control, that he breached contract and committed Fraud by misrepresenting the
20 motorcycle owned by his trust, offering it as a “bonus” in addition to the [still
21 unpaid] contract. He continued to breach contract by fraudulent means at every
22 turn, while personally sanctioning Fraud and promoting injustice under the
23 corporate form of both Defendant Lifeline Media LLC., who never paid for the
24 manufacture of the Motion Picture and other media, whereas, Defendant
25 Nationwide Affordable Housing Inc. was the alleged source for Defendant
26 Howard's funding for his personal and business expenses directly and materially
27 related to the contract in breach.
28

1 Ultimately, any distinction between Defendant Lifeline Media and
 2 Defendant Howard ceased to exist when the Motion Picture (conspicuously
 3 marked as “presented by Lifeline Media LLC.” in the opening credits) was
 4 personally placed online by Defendant Howard at his www.benshoward.com,
 5 and his www.benshoward.net personal web sites, fed via embedded link from his
 6 Vimeo service account at www.vimeo.com/33328737.

7
 8 Plaintiff believes that the individual defendant is “*held liable for the torts of*
 9 *the corporation*” if the Plaintiff can show that “(1) [the individual] authorized or
 10 participated in the actions or (2) the corporation is [the individual’s] alter ego.”
 11 *Maloof v. Raper Sales, Inc.*, 113 Ariz. 485, 488, 557 P.2d 522, 524 (1976); see
 12 *Rhoads v. Harvey Publications, Inc.*, 124 Ariz. 406, 408, 604 P.2d 670, 672 (App.
 13 1979). “Under an alter ego theory, plaintiff must prove (1) unity of control and (2)
 14 that observance of the corporate form would sanction a fraud or promote
 15 injustice.” *Gatecliff v. Great Republic Life Ins.*, 170 Ariz. 34, 37, 821 P.2d 725,
 16 728 (1991) (citing *Dietel v. Day*, 16 Ariz. 206, 208, 492 P.2d 455 (App. 1972)).

17
 18 Unity of control means there “is such a unity of interest and ownership that
 19 the personalities of the corporation and the owners cease to exist.”
 20 *Bischofshausen, Vasbinder & Luckie v. D.W. Jaquays Min. & Equip. Contractors*
 21 *Co.*, 145 Ariz. 204, 208–09, 700 P.2d 902, 906–07 (App. 1985) (quoting *Ize*
 22 *Nantan Bagowa, v. Scalia*, 118 Ariz. 439, 442, 577 P.2d 725, 728 (App. 1978)).

23
 24 An officer or shareholder need not be the sole shareholder to have unity of
 25 control over a corporation. See *Firstmark Capital Corp. v. Hempel Financial*
 26 *Corp.*, 859 F.2d 92, 93 (9th Cir. 1988) (defendant president and chief executive
 27 officer who “owned 95% of the stock” in the corporation was found to have unity
 28 of control). There is unity of control when a defendant CEO “disregard[s]

1 corporate formalities” and “use[s] corporate funds for his own . . . personal
 2 purposes . . . [and] makes all the important management decisions for [the
 3 corporation] including those that result in the corporate activity that underlies the
 4 alter ego and fraud judgment.” *Id.*

5
 6 Considering each criterion that establishes Alter Ego, the additionally named
 7 Defendants in this case appear to qualify as the Alter Egos of Defendant Howard:

8
 9 **1. Defendant Lifeline Media LLC**

10 Plaintiff alleges that Defendant Lifeline Media LLC., recently discovered to
 11 be a Utah entity [Exhibit H], is an Alter Ego of Defendant Howard, created in or
 12 around June 2011, by renaming an existing LLC under his sole control, formerly
 13 named “RFA Financial UT, LLC.” [Exhibit I], renaming it “Lifeline Media LLC.”
 14 in the presence and witness of Plaintiff. This action was accomplished online by
 15 Defendant Howard, who consulted no one in the corporate form to make the name
 16 change, but merely consulted Plaintiff for a “catchy” brand name for his “new”
 17 media company. Defendant Howard stated that the purpose of the renaming action
 18 was to save himself money, instead of paying for a new LLC filing (paraphrased).

19
 20 Plaintiff alleges that equity interest in the LLC, and interest in its
 21 products (which Plaintiff was manufacturing) were claimed by Defendant Howard
 22 to be determined by him, once he knew the “true worth” of the company and its
 23 assets. By continually alternating promises between equity ownership and “work
 24 for hire” payment, either from the LLC or from himself, any distinction between
 25 Defendant Howard and Defendant Lifeline Media LLC. had ceased to exist.

26
 27 Plaintiff alleges that on or around 8 December 2012, Defendant Howard
 28 uploaded the Motion Picture, for public exhibition, which was conspicuously

1 marked in the opening credits as a “presentation” of Defendant Lifeline Media
 2 LLC., demonstrating Unity Of Control AND the observance of the corporate form,
 3 sanctioning a fraud and promoting injustice, meeting the criteria for Alter Ego.
 4

5 Therefore, Plaintiff respectfully requests that this honorable Court deny
 6 Defendants' Motion To Dismiss Defendant Lifeline Media LLC. from Specific
 7 Personal Jurisdiction, and find that Venue is Proper, under the *Alter Ego* Doctrine.
 8

9 **2. Defendant Nationwide Affordable Housing Inc.**

10 Plaintiff alleges that Defendant Nationwide Affordable Housing Inc., a
 11 Texas entity [Exhibit J], is an Alter Ego of Defendant Howard, under his sole
 12 management as its authorized agent since its inception in 1995, which is NOT in
 13 good standing with the Texas Secretary Of State, because it has not satisfied all
 14 franchise tax requirements as of 30 September 2012.
 15

16 Plaintiff alleges that Defendant Howard transferred and used funds
 17 unilaterally from Defendant Nationwide Affordable Housing Inc., at will, to fund
 18 the operations of Defendant Lifeline Media LLC., and to pay for business and
 19 personal expenses prior to the creation of the LLC., demonstrating Unity Of
 20 Control AND the observance of the corporate form sanctioning a fraud and
 21 promoting injustice against Plaintiff, meeting the criteria for Alter Ego.
 22

23 Further, Defendants' Corporate Disclosure Statement filing [Doc. 19] stated
 24 that no parent corporation exists for any of the Defendants. However, Defendant
 25 Howard stated to Plaintiff that Defendant Nationwide Affordable Housing Inc.
 26 was indeed the main funding source for Defendant Lifeline Media LLC., as he
 27 maintained and transferred his assets through corporate entities for tax purposes.
 28 Defendant Howard's I.R.S. documentation shall substantiate this allegation.

1 Therefore, Plaintiff respectfully requests that this honorable Court deny
 2 Defendants' Motion To Dismiss Defendant Nationwide Affordable Housing Inc.
 3 from Specific Personal Jurisdiction, and find that Venue is Proper, under the *Alter*
 4 *Ego* Doctrine.

6 **3. Defendant Ben Howard Trust**

7 Plaintiff alleges that Defendant Ben Howard Trust, an Idaho trust, is an Alter
 8 Ego of Defendant Howard because he represented the Motorcycle as his personal
 9 vehicle, yet the Idaho Title of the vehicle listed the owner as Defendant Ben
 10 Howard Trust. Defendant Howard's signature was the only authorization needed to
 11 lawfully execute the transfer of title to Plaintiff, demonstrating Unity Of Control.

12
 13 Plaintiff alleges that the day after Defendant Howard signed the Bill Of Sale,
 14 he also INSURED the property that he had just released and no longer owner
 15 [Exhibit K] but was then owned by Plaintiff, which, compounded by Defendant
 16 Howard withholding the transfer of Title for the month following, by stating and
 17 claiming that Plaintiff was lawful to ride the vehicle home to the Forum State,
 18 without a transferred Title or license plate, demonstrates that observance of the
 19 corporate form had sanctioned a Fraud and promoted injustice.

20
 21 Further, Plaintiff alleges that Defendant Howard insured the vehicle with the
 22 intention of executing a two-fold scheme: If Plaintiff left without the Title -
 23 Defendant Howard could insure Plaintiff as an additional driver with accidental
 24 death & dismemberment coverage from which to profit, if Plaintiff did not survive
 25 the treacherous ride of nearly 1000 miles through the storm over Utah and
 26 Arizona, that he purposefully delayed Plaintiff's departure to coincide with said
 27 storm on a dangerous motorcycle without adequately functioning brakes, in order
 28 to be free of his considerable debt to Plaintiff by covert means, or; should Plaintiff

1 survive and pursue the debt rightfully owed to him, Defendant Howard could then
2 threaten to report the "theft" of the vehicle (since he had never signed the Title
3 transfer until the commotion on the day before departure) in order to coerce
4 Plaintiff into abandoning his claim in a court of law.

5
6 Plaintiff alleges that brakes in the class and weight of the Motorcycle have a
7 typical service life minimum of 30,000 miles and much higher, depending on
8 riding habits. Because the vehicle's odometer read just above 10,000 miles in Utah
9 [Exhibit L], it is not likely that the odometer reading was true and accurate, as it
10 was represented by Defendant Howard, that by just above 11,000 miles at the
11 destination in Arizona, the brake pads should NOT have been worn through both,
12 the pads and their metal backings [Exhibit M].

13
14 Regardless of Defendant Howard's schemes, Plaintiff forcefully demanded
15 and received the transferred Title before leaving Utah, mitigating the Fraud he
16 expected. But Defendant Howard did not disclose the very dangerous condition of
17 the vehicle's [metal to metal] braking system, exponentially multiplying the level
18 of risk, which he had placed Plaintiff into unawares. However this alleged scheme
19 played out, it is sufficient to show fraudulent conduct, and sufficient to show that
20 an injustice resulted from the corporate form.

21
22 Plaintiff alleges that Defendant Howard demonstrated Unity Of Control
23 AND the observance of the corporate form sanctioning a Fraud and promoting
24 injustice, meeting the criteria for Alter Ego.

25
26 Therefore, Plaintiff respectfully requests that this honorable Court deny
27 Defendants' Motion To Dismiss Defendant Ben Howard Trust from Specific
28 Personal Jurisdiction, and find that Venue is Proper, under the *Alter Ego* Doctrine.

1 **4. Analysis**

2
3 Because this honorable Court has not required an evidentiary hearing, it is
4 sufficient that Plaintiff has plead facts to show a Prima Facie case that this
5 honorable Court has personal jurisdiction over the additionally named Defendants
6 under the *Alter Ego Doctrine*. *Ballard*, 65 F.3d at 1498.

7
8 Therefore, Plaintiff respectfully requests that this honorable Court deny
9 Defendants' Motion To Dismiss any or all of the Defendants in this Case from
10 Specific Personal Jurisdiction, and find that Venue is Proper, under Arizona's
11 *Alter Ego Doctrine*.

II. VENUE IS PROPER

A. United States Code 28 U.S.C. § 1391(a)(2)

Pursuant to 28 U.S.C. § 1391(a)(2), "A civil action wherein jurisdiction is founded only on diversity of citizenship may, except as otherwise provided by law, be brought only in... a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, *or a substantial part of property that is the subject of the action is situated...*" (emphasis added by Plaintiff).

Whereas, a substantial part of property that is the subject of this action is situated in the Forum State, being that ALL of the property is located in the Forum State, specifically the Motion Picture in its elements and the Motorcycle;

Specifically, Plaintiff's computer equipment and corresponding data storage of the Motion Picture [in all of its digital elements] are in his possession, as well as the Motorcycle, which is NOT in a safe condition to ride on the U.S. Interstate highway system into another forum, due to the originally undisclosed [by Defendants] mechanical issues with its braking system. Plaintiff possesses no means to ship the motorcycle or the computer equipment, upon which, the Motion Picture resides in digital, electronic form.

Plaintiff believes that Venue should be firmly anchored in the Forum State by the provision of 28 U.S.C. § 1391(a)(2) over Defendant Howard and the additionally named Defendants, disregarding 28 U.S.C. § 1391(c) by virtue of the Prima Facie appearance of *Alter Ego*, whereas, 28 U.S.C. § 1391(c) applies only to *bona fide* corporate entities.

1 **B. The Burden on Plaintiff**

2 Additionally, Mr. Gerren Ard, Plaintiff's principal witness, with firsthand
3 knowledge of many key events, which occurred both in Arizona and in Utah, is a
4 resident of the Forum State, with no means of transportation to any other forum.
5 Mr. Ard has stated to Plaintiff, that his intent is to file his own complaint *Pro Se*
6 I.F.P. in this Forum against Defendants as well, and has since begun drafting his
7 complaint in earnest. It should be noted that Arizona Law materials are available
8 to Plaintiff to research at the District Court and public libraries within this Forum.
9

10 Plaintiff also believes that the reasoning behind the courts determination of
11 Proper Venue is for the convenience of all parties, primarily the aggrieved party,
12 while including the Court's convenience too, often consolidating and eliminating
13 duplication of a civil action in a plurality of forums as a matter of judicial
14 preference and practice for general efficiency and convenience.
15

16 Defendant Howard is the sole authorized agent and sole member
17 representing each of the additionally named Defendants in this civil action. In so
18 much as Defendants have denied jurisdiction in this Venue, Plaintiff asserts that
19 Defendants shall challenge all venues as a matter of strategy, to force dropping
20 any combination of additionally named Defendants in Utah, Texas, and Idaho, in
21 an effort to make it economically impossible for Plaintiff to seek relief by any
22 reasonable means.
23

24 Whereas, Defendants offered the underlying case law of *Gardner*
25 *Engineering Corp. v. Page Engineering Co.*, 484 F.2d 27, 33 (8th Cir.1973) in
26 their memorandum, they neglected to indicate the full scope of the citation, which
27 was summarized in 47 with, "...Since venue is a procedural rule of convenience,
28 *the convenience of the aggrieved party should be first accommodated.*"

1 Plaintiff claims the above citation, as the *aggrieved party*, whereby, he
2 should be first accommodated, in as much as the grievous economic condition of
3 Plaintiff is a direct result of the alleged injury Defendants have inflicted upon him;
4 whereas, Defendants offer no compelling claim of burden whatsoever to
5 defending themselves in the Forum State.

6
7 Any change of forum represents an insurmountable burden upon Plaintiff,
8 beyond his means to pursue relief. Plaintiff is acting *Pro Se* for the lack of
9 wherewithal to hire a qualified attorney in this or any other forum.

10
11 **C. Analysis**

12 Wherefore, under 28 U.S.C. § 1391(a)(2), Venue is proper, while no
13 reasonable expectation or compelling reason can be offered by Defendants in
14 which justice would be better served in any alternate forum, considering the
15 circumstances and allegations of this Case, where the interests of this Forum and
16 Plaintiff's interest in obtaining relief far outweigh any alleged burden to the
17 Defendants in this Case.

18
19 Plaintiff brings this Case before this honorable Court with clean hands,
20 having performed, whereas, Defendants continue to benefit from Plaintiff's work
21 without paying for it, merely by virtue of refusing to be held accountable in any
22 meaningful way to pay off this substantial and legitimate debt, perpetrated against
23 a resident of this Forum.

24
25 Based on the foregoing reasons, this honorable Court should deny
26 Defendants' Motion To Dismiss, in whole or in part, for improper Venue.

III. MOTION FOR LEAVE OF COURT TO AMEND

Pursuant to Federal Rule of Civil Procedure 15(a), Plaintiff shall file a subsequent Motion, respectfully requesting this honorable Court's Leave to Amend the Complaint [Doc. 1] for the following errors and omissions:

- A. Correction of Typos ;
- B. Addition of Prima Facie Evidence;
- C. Correction of Claims In Complaint [Doc. 1, ¶37 through ¶58];
- D. Moving to File Electronic Prima Facie Evidence on Disc.

Based on the foregoing reason, this honorable Court should render moot Defendants' Motion To Dismiss for any failures in the Claims of the Complaint [Doc. 1] at this time.

IV. SUMMARY

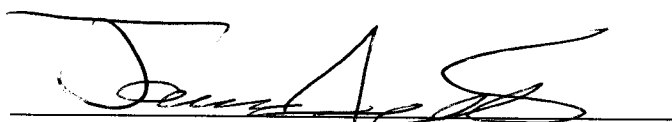
Whereas, Defendants have filed a "Motion To Dismiss & Memorandum In Support" [Doc. 18], asserting (1) Lack Of Personal Jurisdiction, (2) Improper Venue, (3) Failure to state a claim upon which relief can be granted – Plaintiff respectfully requests that this honorable Court defeat Defendants' Motion To Dismiss by the following determinations:

- (1) DENY Lack Of Personal Jurisdiction;
- (2) DENY Improper Venue;
- (3) Render MOOT, failure to state a claim upon which relief can be granted, by reason of Plaintiff Moving to Amend under Rule 15(a).

1 Plaintiff apologizes to this honorable Court for the volume of this document,
2 however, establishing Jurisdiction and Venue required great diligence to assemble
3 into a comprehensive, logical and organized form, with pages 3 and 4 herein
4 [DOCUMENT STRUCTURE] designed to provide a checklist, as well as an index
5 to this Memorandum In Opposition.

6
7 Whereas, Plaintiff does not wish to characterize, Defendants are indeed fully
8 cognizant of their business, continued obligations and contact within this Forum,
9 and most notably, their non-performance to make payment, whereby, it comes as
10 no surprise whatsoever to Defendants that Plaintiff's Prima Facie evidence of
11 Minimum Contacts is entered herein. This additional exercise in dodging
12 accountability further underscores Defendants ongoing pattern of continuing to
13 attempt evading any court of law, which may adjudicate for them to pay their
14 legitimate debts. Therefore, Plaintiff prays that all Defendants named shall be held
15 accountable by the Authority of this honorable Court.

16
17 Respectfully submitted this 15th day of October 2012.

18
19
20
21 

22 James Arnett, In Propria Persona (I.F.P.)

23 9288 N. Monmouth Court

24 Tucson, Arizona 85742

25 (520)878-9779 (home)

26 (520)304-0129 (field)

27 jamesarnettaz@gmail.com (email)

EXHIBIT "A"

MOTORCYCLE. Plaintiff's 1994 Suzuki VS1400 Motorcycle in Utah. Please note the absence of its [Idaho] license plate, which Defendant Howard removed, leaving the exposed, bare mounting bracket, immediately beneath the tail light.



EXHIBIT "B"

EMAIL. Please note, when payment was demanded by Plaintiff, Defendant Howard denied any contract ever existed, despite having uploaded the TV Commercial Spot and Motion Picture online in the promotion of his business three months prior (believing that having escaped all demands to formalize the contract in writing, and had escaped his liability to pay his debt to Plaintiff). Defendants' denial was immediately followed with bogus threats of civil and criminal penalties for Plaintiff attempting to collect the debt, followed by a "love" overture to speak on the telephone, in order to escape the documentation of any negotiations, consistent with his modus operandi to avoid producing documentation throughout the time in Utah. This single email was the full extent of Defendant Howard's negotiation to settle his debt.

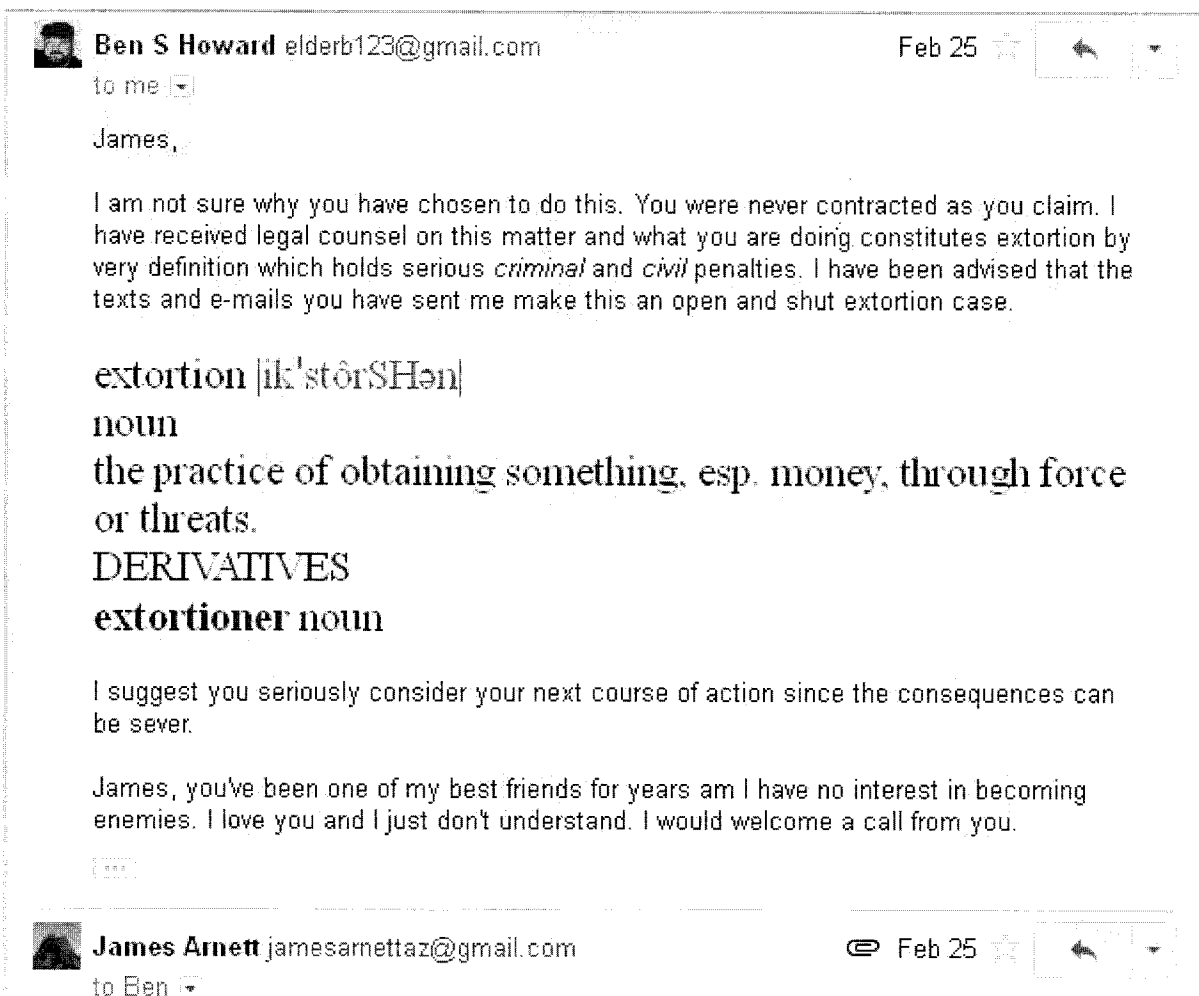


EXHIBIT "C"

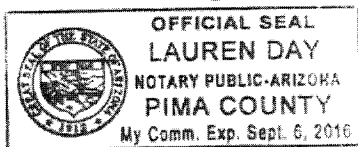
MR. YBARRA'S STATEMENT

I recognize the individual in the two photographs below from James Arnett's apartment in Tucson, Arizona, where I saw him, in or around February 2011.

I also recall Steven M. Adelson there on the same occasion, as we were looking over the progress of Arnett's "Blocked" film.

State of Arizona
County of Pima
On this 10 day of Oct, 2012, EDGAR A. YBARRA
personally appeared before me whose identity
I proved on the basis of satisfactory evidence
to be the signer of the above instrument and
he/she acknowledged that he/she executed it.

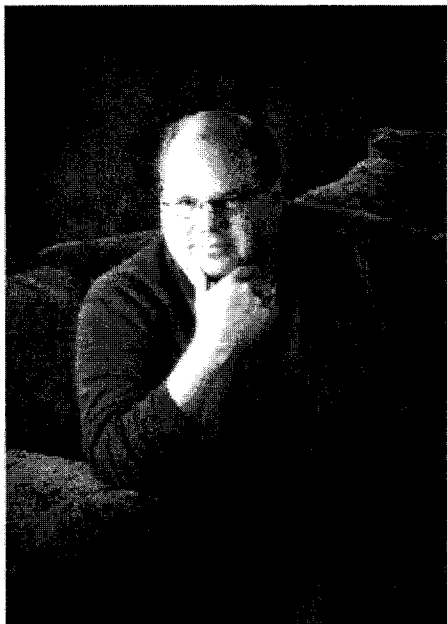
Lauren Day
Notary Public



Edgar A. Ybarra
(520)480-8943

AR DL D01404643 9/45
AZ License

10-9-12
Date



Photographs of Ben S. Howard from his Facebook.com page at <http://www.facebook.com/benshoward>

EXHIBIT "D"**MR. ADELSON'S STATEMENT**

In or around February 2011, I attended a gathering of individuals in the apartment of James Arnett of Tucson, Arizona. At the time, Mr. Arnett was editing his feature motion picture BLOCKED. The purpose of this gathering was to look over the progress of this movie and offer comments.

I recognize the individual in the two photographs below. Although I do not recall his name, I do recall seeing him at the apartment on the evening Mr. Arnett presented his film. I also recall Edgar A. Ybarra was also there on the same occasion.

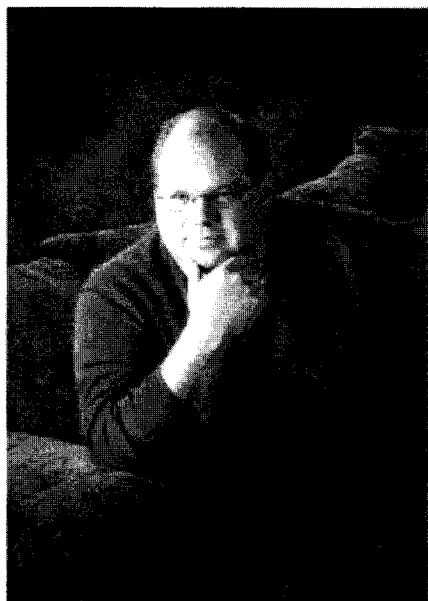
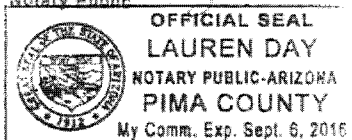
State of Arizona
County of Pima

On this 9th day of Oct, 2012, STEVEN M. ADELSON
personally appeared before me whose identity
I proved on the basis of satisfactory evidence
to be the signer of the above instrument and
he/she acknowledged that he/she executed it

Steven M. Adelson
(520)721-4233

AZDL B 14644601
AZ License

10-9-12
Date



Photographs of Ben S. Howard from his Facebook.com page at <http://www.facebook.com/benshoward>

EXHIBIT "E"**PLANE TICKET.**

Changes have been made to your 6/5/2011 flight



BEN X



Expedia Travel Services notifications@expedia.com
to me

5/28/11

**Your Flight Details Have Changed**

Passenger(s): ARNETT/JAMES

Expedia Itinerary Number: 137137017384

United Airlines confirmation code: T1FX7M

Dear Expedia Traveler,

United Airlines made the following change(s) to your itinerary:

* Changed the flight number for 2 of your flights.

Airlines will occasionally adjust flight schedules. United Airlines has done their best to find an alternative that offers minimal disruption to your trip and we have updated your itinerary accordingly. It is not necessary to call us regarding the change.

Your updated flight itinerary is below, and you can always view your most up-to-date itinerary at [Expedia](#).**Tucson to Denver****Flight Change Details**

Sunday, Jun 05, 2011 at 8:42 AM

Change in Flight

United Airlines

Flight Number: UA6279 6858 (change)

From: (TUS) Tucson AZ, USA

Depart: 8:42 AM

To: (DEN) Denver CO, USA

Arrive: 11:40 AM

Status: CONFIRMED

Class: Coach

Equipment: CRJ-700 Canadair Regional Jet

Seat: 13B

Operated By: /UNITED EXPRESS/SKYWEST AIRLINES(UA)

Denver to Salt Lake City**Flight Change Details**

Sunday, Jun 05, 2011 at 1:56 PM

Change in Flight

United Airlines

Flight Number: UA6277 6617 (change)

From: (DEN) Denver CO, USA

Depart: 1:56 PM

To: (SLC) Salt Lake City UT, USA

Arrive: 3:27 PM

Status: CONFIRMED

Class: Coach

Equipment: CRJ-700 Canadair Regional Jet

Seat:

Operated By: /UNITED EXPRESS/SKYWEST AIRLINES(UA)

Sincerely,
The Expedia Travel Team

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are registered trademarks, or trademarks
herein may be trademarks of their respec

For Internal use only

* TPID: 1

* TUID: 230468865

* Itinerary Number: 137137017384

from: James Arnett jamesarnettaz@gmail.com

to: B Howard <elderb123@gmail.com>

date: Sat, May 28, 2011 at 9:52 AM

subject: Fwd: Changes have been made to your 6/5/2011 flight

mailed-by: gmail.com

plane logos
mentioned

OQPOTO

EXHIBIT "F" page 1 of 2

TELEPHONE RECORDS. Please note, Plaintiff's Cricket field phone (520)304-0129 was originally ordered by and in Defendant Howard's name. The phone was drop-shipped to Plaintiff bearing a (520) area code, NOT Utah (801). Additionally, the bill for the telephone was paid intermittently by Defendant starting in November 2010 in order to establish Continued Obligations during development of Defendant's web site for marketing the Book, Audio Book, Motion Picture and TV Commercial Spot. The (520)358-5638 line was added later by Plaintiff for his mother's emergency cell phone.

Payment History

Inbox x

AL-MUNT CORP cellphonecity1@yahoo.com 2:08 PM (10 minutes ago)
to me

Khalifa Riad Muntasser

Office: 520-579-6679

Corporate Headquarters
3720 W Ina Rd, Suite 134
Tucson, AZ 85741

 **Payment History List.docx**
35K View Download

account summary

Name	BEN HOWARD	Amount Due	\$0.00
Account Number	340-9367508-1	Future Charges	\$70.76
Billing Address	PO BOX 223 HUNTSVILLE, UT 84317 Edit	10/09/2012	
Status	Active	My Bill	View
Automatic Bill Pay	Not Enrolled		

[BridgePay Request](#)

Current Lines of Services

Wireless Lines: 2 Broadband Lines: 0

(520) 304-0129
(520) 358-5638

Top of Form

/s/ EPD UKLTzk

Payment History List

 Re-print Receipt  Cancel

EXHIBIT "F" page 2 of 2

Provider	Product	Date	Account ID	Confirmation ID	Payment	LD	Fee	Total	User	Payment Method	Action
Cricket	Service Payment	6/12/2012 1:10:34 PM	5203040129	QPAYWP327000285	\$34.00	\$0.00	\$3.00	\$37.00	12350041	Cash	
Cricket	Service Payment	5/10/2012 1:41:41 PM	5203040129	QPAYWP318831571	\$70.76	\$0.00	\$3.00	\$73.76	12350041	Cash	
Cricket	Service Payment	4/12/2012 1:57:49 PM	5203040129	QPAYWP311738909	\$70.76	\$0.00	\$3.00	\$73.76	12350041	Cash	
Cricket	Service Payment	1/11/2012 2:25:31 PM	5203040129	QPAYWP287903708	\$70.76	\$0.00	\$3.00	\$73.76	12350041	Cash	
Cricket	Service Payment	3/1/2011 4:46:03 PM	5203040129	QPAYWP208041189	\$117.00	\$0.00	\$3.00	\$120.00	12350041	Cash	
Cricket	Service Payment	2/6/2011 5:56:07 PM	5203040129	QPAYWP203002596	\$38.00	\$0.00	\$3.00	\$41.00	12350041	Cash	
Cricket	Service Payment	1/11/2011 4:57:31 PM	5203040129	QPAYWP196039484	\$37.40	\$0.00	\$3.00	\$40.40	12350041	Cash	
Cricket	Service Payment	12/30/2010 5:01:59 PM	5203040129	QPAYWP193102386	\$39.78	\$0.00	\$3.00	\$42.78	12350041	Cash	

EXHIBIT "G"

DEFENDANT BENEFITTING FROM MOTION PICTURE. Please note, the "Top URL Embeds" for this online video of the Motion Picture at www.vimeo.com/33328737 are from Defendant's Facebook page(s), and Defendants' www.benshoward.com and www.benshoward.net web sites. Also note the Motion Picture was "uploaded" by Defendant Howard, on behalf on Defendant Lifeline Media.

vimeo

Join

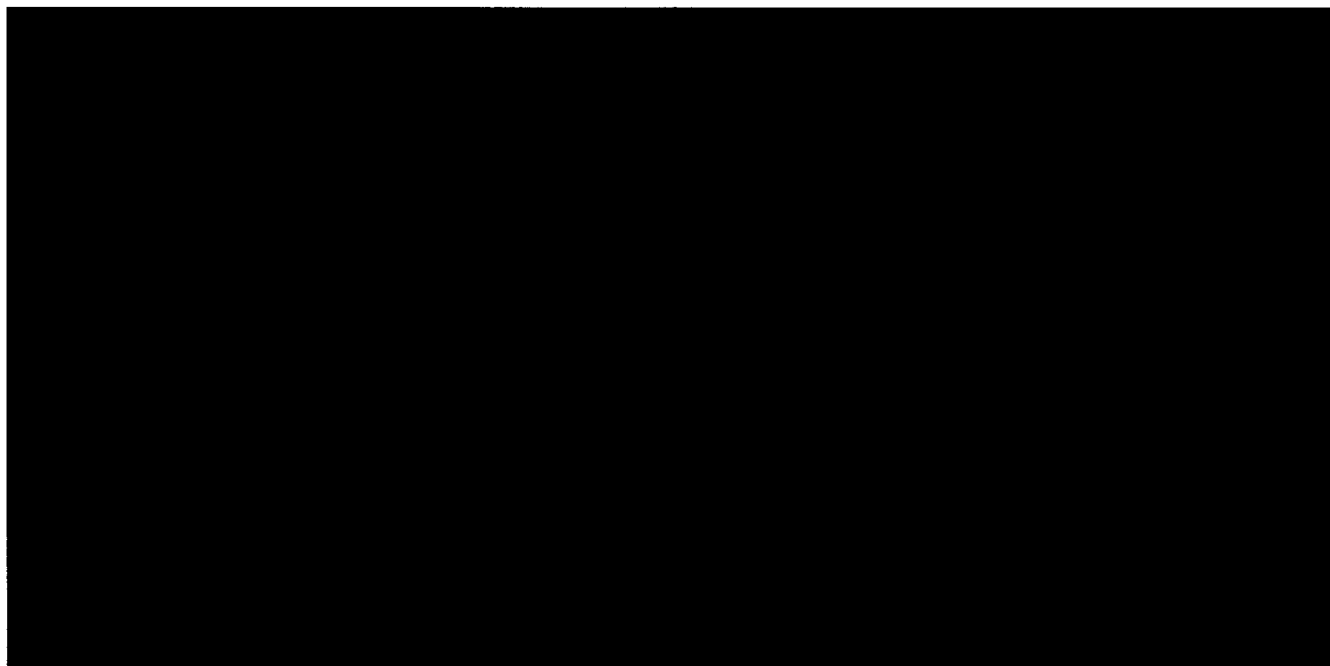
Log In

Explore

Help

Search

+VIDEOS

**Overcoming Life's Trauma**

by Ben Howard 9 months ago

✓ Follow

+ Add to...

Stats

↓ Download

All-Time

Weekly

Sep 28, 2012 – Oct 5, 2012

◀ Prev

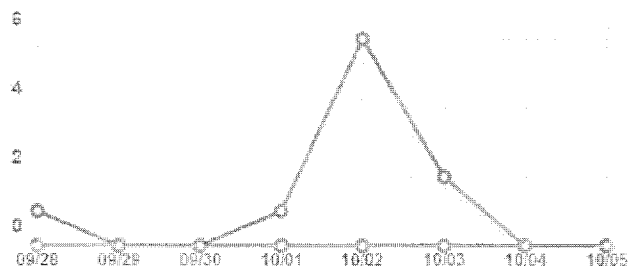
Next ▶

Weekly Overview

Top URL Embeds

181
Plays0
Likes0
Comments

Learn about Stats



Domain	Loads	Plays
benshoward.net	83	31
facebook.com	38	34
benshoward.com	29	10

EXHIBIT "H"

DEFENDANT LIFELINE MEDIA CORPORATE RECORD. Please note, RFA Financial UT, LLC. appears as the former business name. Also note that Defendant Howard is the only officer and registered agent.

A Secure Online Service from Utah.gov

Utah Business Search - Details

LIFELINE MEDIA, LLC

[Update this Business](#)

Entity Number: 7977714-0160

Company Type: LLC - Domestic

Address: 6204 E 1800 N Eden, UT 84310

State of Origin:

Registered Agent: BEN HOWARD

Registered Agent Address:

6204 E 1800 N(EDEN UT 84310) PO BOX 223

Huntsville, UT 84317

[View Management Team](#)

Status: Active

[Purchase Certificate of Existence](#)

Status: Active as of 04/21/2011

Renew By: 04/21/2013

Status Description: Good Standing

Employment Verification: Not Registered with Verify Utah

History

[View Filed Documents](#)

Registration Date: 04/21/2011

Last Renewed: 05/08/2012

Additional Information

NAICS Code: 9999 **NAICS Title:** 9999-Nonclassifiable Establishment

Former Business Names

RFA FINANCIAL UT, LLC

[« Back to Search Results](#)

EXHIBIT "I"

FORMER IDENTITY OF DEFENDANT LIFELINE MEDIA. Please note, Defendant Howard's residence (in 2011) is the corporate location.

Rfa Financial Ut, LLC

[Claim this Profile](#)

Address:

6204 E 1800 N

Eden, Utah

84310-9508

Phone:

Website:

Category:

No Information Provided

No Information Provided

Investment Advice,

Investment Advice

This is My Company

Research This Company

- Summary
- Photos

Contact: Ben Howard Est. Total Employees: 2

State of Inc: UT Year Established: 2011

Est. Total Sales: \$ 91,000.00

Basic Review

No Information Provided

RFA FINANCIAL UT, LLC

EXHIBIT "J" page 1 of 3

DEFENDANT NATIONWIDE AFFORDABLE HOUSING INC. CORPORATE RECORD. Please note, despite the "typo" of "Ben S. Howrad" which defeats a search of the Texas corporation records, Defendant Howard is the sole owner, officer and agent of Defendant Nationwide Affordable Housing Inc.

Link to Window on State Government - Susan
Combs, Texas Comptroller of Public
Accounts

Susan Combs, Texas Comptroller of Public
Accounts

image of star

Taxable Entity Search Results

Franchise Tax Certification of Account Status

This Certification Not Sufficient for Filings with Secretary of State

Obtain a certification for filings with the Secretary of State.

It takes up to two weeks for this search to update when payment is made through the mail or at a taxpayer service office. This agency may manually issue a Certificate of Account Status (good standing) when an entity makes a payment to bring its account current. The paper certificate issued by our office is valid and represents the entity's status with our office as of the date of the certificate.

Certification of Account Status

Entity Information:

Status:

Registered Agent:

Registered Agent Resignation Date:

State of Formation:

File Number:

SOS Registration Date:

Taxpayer Number:

Officers And Directors Information

**NATIONWIDE AFFORDABLE
HOUSING, INC.**

2324 CHEEK SPARGER RD
BEDFORD, TX 76021-2678

NOT IN GOOD STANDING

BEN S HOWRAD
1100 WEST PIPELINE STE. 202
HURST, TX 76053

TX

0135849400

June 8, 1995

30117844982

texas.gov | Statewide Search from the Texas State Library | State Link Policy | Texas Homeland
Security

Susan Combs, Texas Comptroller • Window on State Government • Contact Us
Privacy and Security Policy | Accessibility Policy | Link Policy | Public Information Act | Compact with
Texans

EXHIBIT "J" page 2 of 3

Please note, despite the ADDITIONAL "typo" of "Ren S. Howard", which defeats a search of the Texas corporation records, Defendant Howard is the sole owner, officer and agent of DEFENDANT NATIONWIDE AFFORDABLE HOUSING INC.

[Link to Window on State Government - Susan Combs, Texas Comptroller of Public Accounts](#)

Susan Combs, Texas Comptroller of Public Accounts

image of star

[Taxable Entity Search Results](#)

Officers and Directors

NATIONWIDE AFFORDABLE HOUSING, INC.

[Return to: Taxable Entity Search Results](#)

Officer and director information on this site is obtained from the most recent Public Information Report (PIR) processed by the Secretary of State (SOS). PIRs filed with annual franchise tax reports are forwarded to the SOS. After processing, the SOS sends the Comptroller an electronic copy of the information, which is displayed on this web site. The information will be updated as changes are received from the SOS.

You may order a copy of a Public Information Report from open.records@cpa.state.tx.us or Comptroller of Public Accounts, Open Government Division, PO Box 13528, Austin, Texas 78711.

Title	Name and Address	Expiration/Resignation Date
PRESIDENT	REN S HOWARD 2324 CHEEK SPARGER RD BEDFORD , TX 76021	

[texas.gov](#) | [Statewide Search from the Texas State Library](#) | [State Link Policy](#) | [Texas Homeland Security](#)

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[Privacy and Security Policy](#) | [Accessibility Policy](#) | [Link Policy](#) | [Public Information Act](#) | [Compact with Texans](#)

EXHIBIT "J" page 3 of 3

Please note, DEFENDANT NATIONWIDE AFFORDABLE HOUSING INC. is NOT in "good standing" with the Texas authority.

Texas Comptroller Stationary

September 30, 2012

CERTIFICATE OF ACCOUNT STATUS

This is in response to your inquiry about the status of

NATIONWIDE AFFORDABLE HOUSING, INC.


This entity is not in good standing as it has not satisfied all franchise tax requirements.

If you need any additional information or assistance, please contact the Texas State Comptroller's field office in your area or call (800) 252-1381, toll free, nationwide. The Austin number is (512) 463-4600.

Taxpayer number: 30117844982
File number: 0135849400

EXHIBIT "K"

BILL OF SALE & PROOF OF INSURANCE. Please note, the date of the Bill of Sale from Defendant Ben Howard Trust is 31 August 2011, transferring ownership of the 1994 vehicle (represented as a 1995 model to Plaintiff), whereas, the date Defendant Howard insured this vehicle was the NEXT day on 1 September 2011, as these two discrepancies indicate.

	Utah State Tax Commission	TC-843 Rev. 7/06
	Bill of Sale	

Division of Motor Vehicles - 210 North 1950 West - Salt Lake City, Utah 84134 - Telephone (801) 297-7780

☐ Automobile ☐ Light Truck, Van or Util. ☐ Heavy Truck (over 12,000 lbs) ☐ Trailer
☒ Motorcycle ☐ Off-Highway Vehicle ☐ Snowmobile ☐ Boat

In consideration of _____ Dollars (\$ _____)

paid to me by JAMES ARNETT

I, _____, do hereby sell and convey to the

buyer the following vehicle, as is: 1995 SUZUKI VS1400
JS1VX51L0R2102837 and _____
Vehicle Identification Number Make Model License Number

I, warrant to the Buyer that the said vehicle is free and clear of any lawful claims and demand of all and every person, whatsoever.

Used vehicles are sold as accepted and are not guaranteed.

This form does not represent documentary evidence of ownership unless accompanied by the outstanding certificate of title.

Seller's Signature

Date signed

8-31-11

INSURANCE IDENTIFICATION CARD - Utah

Policy Number: 37128338-2 Effective Date: 09/01/2011 to 09/01/2012

Insurer: Progressive Classic Insurance Co
 P.O. Box 6807 Cleveland, OH 44101

Your Agent:
 HEINERS INS CENTER
 801-621-2620

Named Insured:
 BEN S HOWARD

Vehicles: Year	Make	Model	VIN
1994	Suzuki	VS1400GLP	JS1VX51L0R2102837
2004	Suzuki	DR-Z400S	JS1SK43A742100356
2007	Yamaha	WR450F	JYACJ12YX7A002731

Form 4950 (12/07)

EXHIBIT "L"

MOTORCYCLE ODOMETER READING. Please note, the mileage of the 1994 Suzuki VS1400 while in Utah had not passed 11,000 miles, indicated on the odometer. This mileage was represented by Defendant Howard to Plaintiff as "original miles".

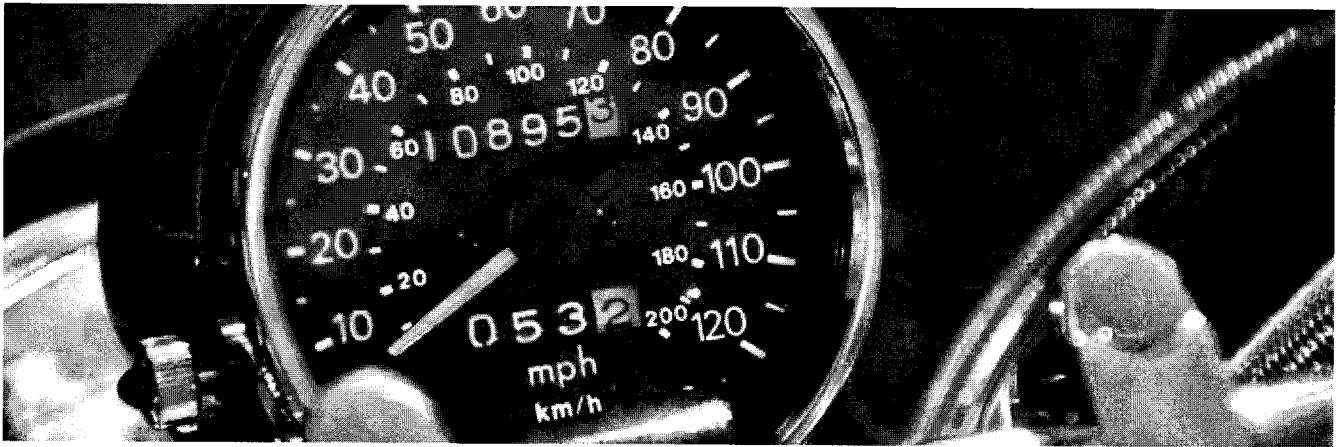


EXHIBIT "M"

MOTORCYCLE REAR BRAKE PAD. Please note, after a journey of approximately 1,000 miles from Defendant Howard's residence in Eden, Utah to Plaintiff's residence in Tucson, Arizona, the entire braking system had failed. Plaintiff discovered that the brake pads were not as recently serviced as Defendant had represented, but were in fact, metal on metal, the calipers having worn through the pads and metal backings to the degree where the metal backing mount on the rear brakes were worn so thin, the caliper had perforated it, making direct contact with the braking disc, destroying the disc and the caliper piston. This type of damage is NOT consistent with mileage under 30,000 original miles.

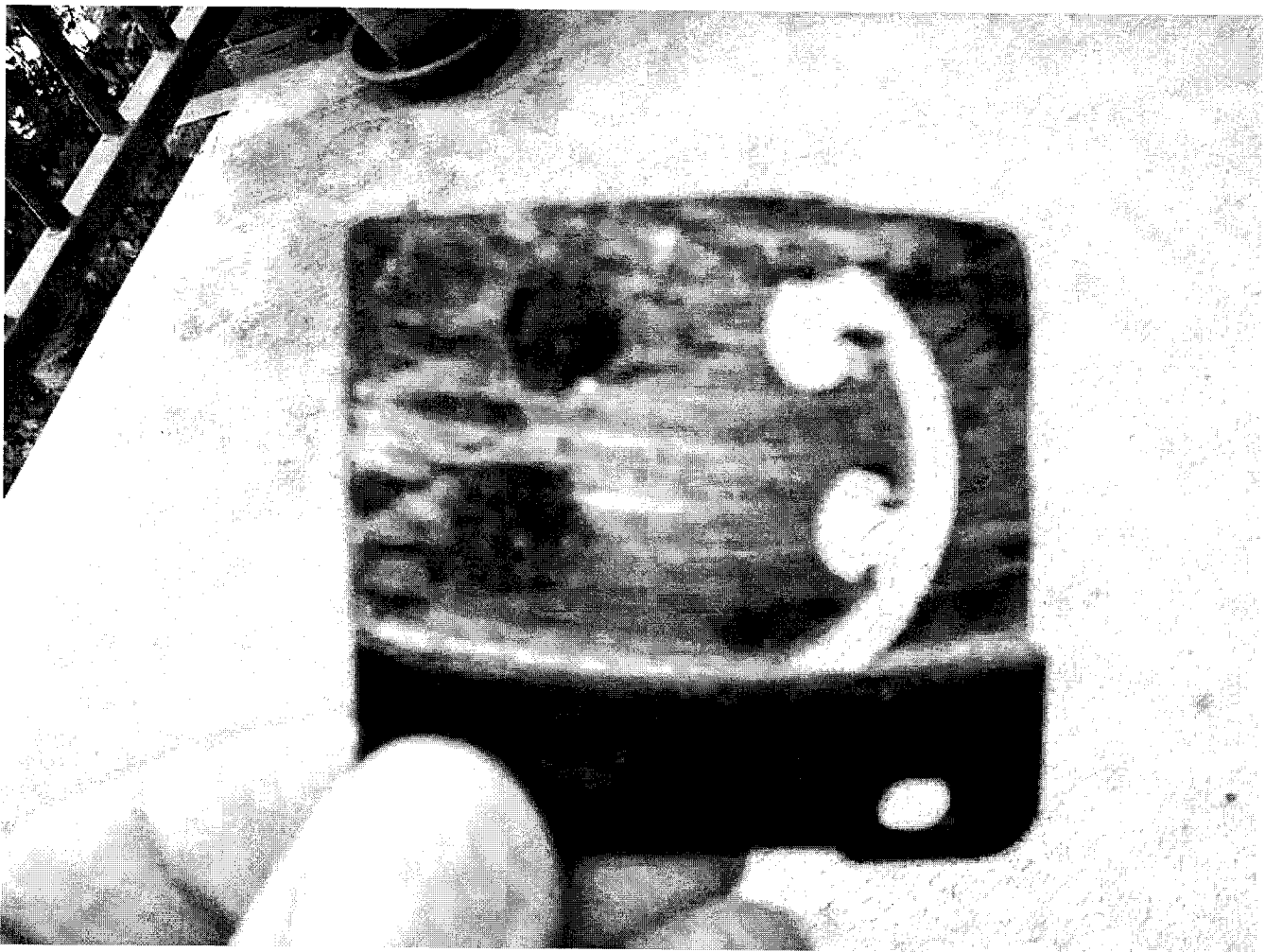


EXHIBIT "N"

PROOF OF MINOR PAYMENTS BY DEFENDANT HOWARD. Three money orders (one to Plaintiff, two to Mr. Gerren Ard) with shipping label, photographed by Defendant Howard prior to shipping them into the Forum State.

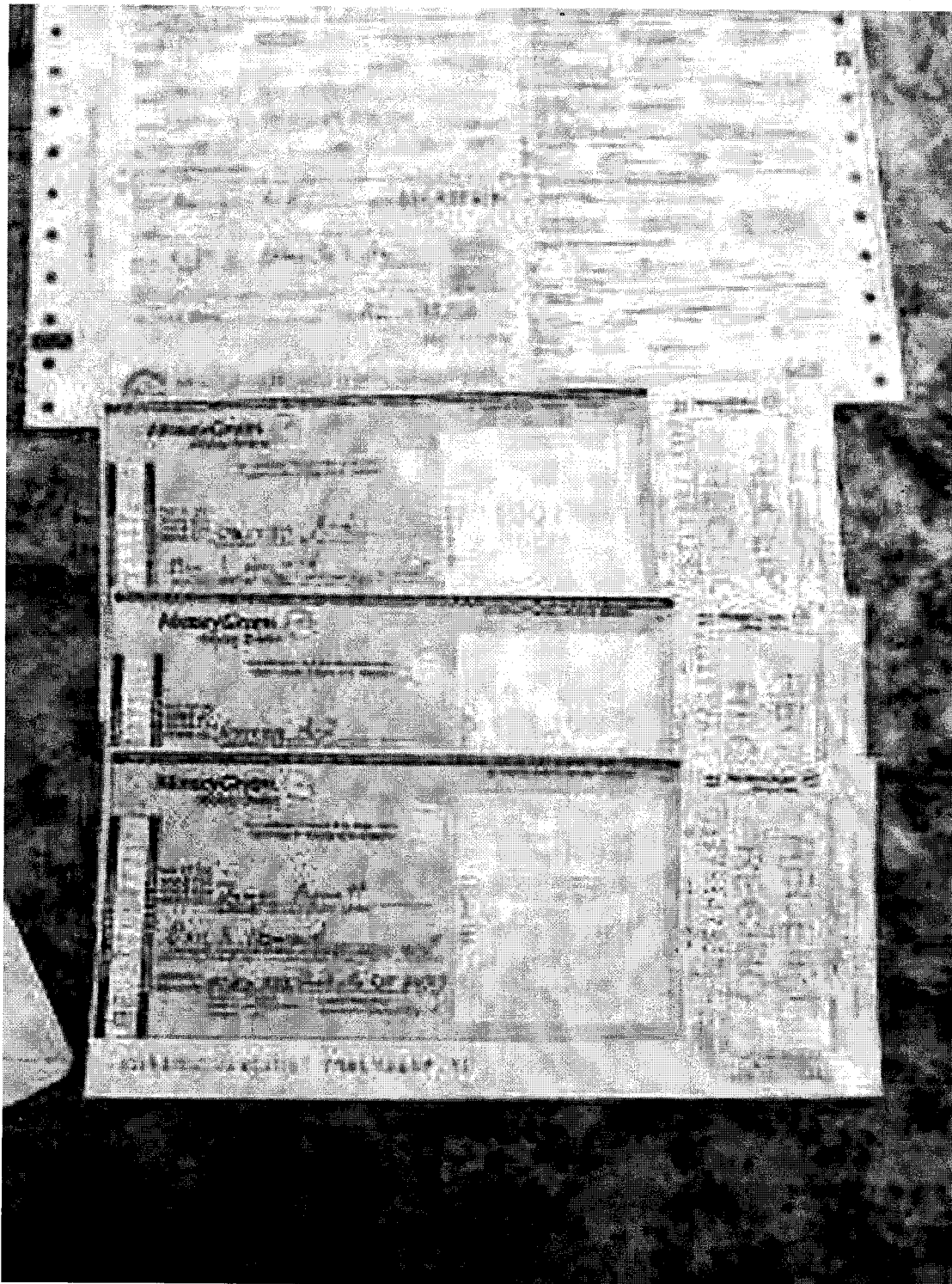


EXHIBIT "O"

DEFENDANT HOWARD'S ALLEGED 37 LLCs IN NEVADA. Defendant Howard listed as "Manager" of the following entities in and around Las Vegas, Nevada. Please note that the majority of these entities were filed during the time-frame that Plaintiff was in Utah with Defendant. Source: Nevada Secretary Of State database.

ENTITY NAME	NEVADA ID	REG. NUMBER	FILE DATE
4113 JEFFS HOLDINGS LLC	NV20111311527	E0263972011-9	5/9/2011
4113 JEFFS PROPERTIES LLC	NV20111311536	E0263982011-0	5/9/2011
COUNT FLEET PROPERTIES LLC	NV20111343144	E0291042011-2	5/20/2011
COUNT FLEET ENTERPRISES LLC	NV20111344176	E0291922011-8	5/20/2011
181 EAST HOLDINGS LLC	NV20111357905	E0303792011-6	5/26/2011
181 EAST PROPERTIES LLC	NV20111358023	E0303902011-1	5/26/2011
6622 WEST HOLDINGS LLC	NV20111369434	E0313612011-8	6/1/2011
6622 WEST PROPERTIES LLC	NV20111369512	E0313692011-6	6/1/2011
655 SOUTH HOLDINGS LLC	NV20111430635	E0367982011-5	6/28/2011
655 SOUTH PROPERTIES LLC	NV20111430690	E0368032011-3	6/28/2011
SUMMER MEADOW ENT. LLC	NV20111470892	E0402792011-6	7/18/2011
SUMMER MEADOW PROP. LLC	NV20111470918	E0402812011-0	7/18/2011
BIRCHTREE HOLDINGS LLC	NV20111497223	E0426782011-3	7/28/2011
BIRCHTREE PROPERTIES LLC	NV20111497299	E0426842011-1	7/28/2011
WILD MAPLE HOLDINGS LLC	NV20111498130	E0427602011-4	7/29/2011
WILD MAPLE PROPERTIES LLC	NV20111498239	E0427682011-2	7/29/2011
SNOW PEAK HOLDINGS LLC	NV20111502143	E0431202011-2	8/1/2011
SNOW PEAK PROPERTIES LLC	NV20111502213	E0431272011-9	8/1/2011
DUSKYWING HOLDINGS LLC	NV20111502519	E0431532011-1	8/1/2011
DUSKYWING PROPERTIES LLC	NV20111502617	E0431582011-6	8/1/2011
CRIMSON PATCH HOLDINGS LLC	NV20111502798	E0431692011-9	8/1/2011
CRIMSON PATCH PROPERTIES LLC	NV20111502849	E0431732011-5	8/1/2011
EAST CIRCLE HOLDINGS LLC	NV20111518479	E0445692011-5	8/7/2011
3114 SOUTH HOLDINGS LLC	NV20111530094	E0455922011-6	8/11/2011
3114 SOUTH PROPERTIES LLC	NV20111530115	E0455942011-8	8/11/2011
SOUTH SILVERADO HOLDINGS LLC	NV20111613114	E0529902011-3	9/24/2011
SOUTH SILVERADO PROP. LLC	NV20111613133	E0529912011-4	9/24/2011
BURNING OAK HOLDINGS LLC	NV20111653889	E0566512011-1	10/14/2011
BURNING OAK ENTERPRISES LLC	NV20111654062	E0566622011-4	10/14/2011
4819 ENOCH HOLDINGS LLC	NV20111671845	E0582432011-1	10/25/2011
4819 ENOCH PROPERTIES LLC	NV20111671924	E0582492011-7	10/25/2011
3839 WEST HOLDINGS LLC	NV20111677091	E0587232011-2	10/27/2011
3839 WEST PROPERTIES LLC	NV20111677129	E0587252011-4	10/27/2011
138 SOUTH HOLDINGS LLC	NV20111679001	E0588982011-2	10/28/2011
138 SOUTH PROPERTIES LLC	NV20111679038	E0589022011-9	10/28/2011
530 EAST HOLDINGS LLC	NV20111679064	E0589042011-1	10/28/2011
530 EAST PROPERTIES LLC	NV20111679103	E0589082011-5	10/28/2011

CERTIFICATE OF SERVICE

I hereby certify that on this day, ___ October 2012, I physically filed the preceding MEMORANDUM IN OPPOSITION, MOTION FOR LEAVE, and MOTION at the Office of the Clerk of the Court.

I also hereby certify that I have mailed these three documents by the United States Postal Service, to the following Attorneys for Defendants Howard, et al.:

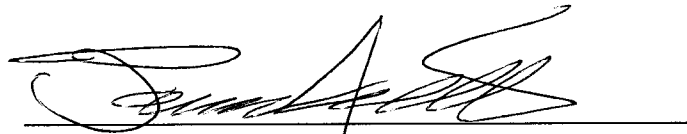
DAVISMILESMCGUIRE GARDNER, PLLC

Scott F. Gibson

80 E. Rio Salado Pkwy., Ste. 401

Tempe, AZ 85281

Respectfully submitted this 15th day of October 2012.

A handwritten signature in black ink, appearing to read 'James Arnett', is written over a horizontal line.

James Arnett, In Propria Persona (I.F.P.)

9288 N. Monmouth Court

Tucson, Arizona 85742

(520)878-9779 (home)

(520)304-0129 (field)

jamesarnettaz@gmail.com (email)